

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35103 of 2023

Arising Out of PS. Case No.-90 Year-2022 Thana- COMPLAINT CASE District- Banka

Pappu Sharma, (Male), aged about 52 years, Son of Ghanshyam Sharma, at Resident of Village- Jotha, P.O- Jotha, P.S.- Dhoraiya, Distt- Banka.

... .. Petitioner

Versus

1. The State of Bihar.
2. Pratima Devi, aged about 24 years, Female, Wife of Pappu Sharma, at present resides with father Prabhash Sharma, R/O Village- Koriyana, P.S.- Basant Rai, Distt- Godda.

... .. Opposite Parties

Appearance :

For the Petitioner	:	Mr. Shambhu Sharan Singh, Advocate
For the State	:	Mr. Khurshid Anwar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

4 24-01-2024 Learned counsel for the petitioner is permitted to remove the defect(s) as pointed by the office, if any, within a period of three weeks from today.

2. Heard learned counsel for the petitioner and learned A.P.P. for the State. However, learned counsel for the opposite party no. 2 is not present despite service of notice validly served upon the opposite party no. 2.

3. The petitioner is apprehending his arrest in connection with Complaint Case No. 90 of 2022 dated 17.01.2022 registered for the offences punishable under Sections 498A, 323, 504 of the I.P.C. and Sections 3/4 of the D.P. Act.



4. As per prosecution case, the petitioner and other accused persons are alleged to have tortured the complainant due to non-fulfilment of Rs. 1,00,000/- as dowry. It is further alleged that the petitioner performed second marriage with another girl Varsha Kumari during the life time of the complainant. Thereafter, the petitioner and the co-accused persons ousted the complainant alongwith her child from the matrimonial house.

5. Learned counsel for the petitioner has submitted that the petitioner is innocent and has been falsely been implicated in the present case. It is submitted that the petitioner neither demanded any dowry nor tortured the complainant. It is further submitted that the petitioner is the husband of the complainant and he has no concern with the alleged offence. It is further submitted that the complainant wants to live separate in house and mess for which the petitioner is not capable to bear extra-expense because he is doing a private job and getting less income. Learned counsel for the petitioner has relied upon the judgments of this Court in the case of *Md. Naimul Haque Ansari @ Naimul Haque Ansari & Ors. Vs. The State of Bihar*, reported in *2006(3) PLJR 182* and in the case of *Satendra Kumar Antil Vs. Central Bureau of Investigation &*



Another (2022) 10 SCR 351 and Md. Asfak Alam Vs. The State of Jharkhand & Anr., passed in *Criminal Appeal No. (s). 2207 of 2023 arising out of Special Leave Petition (CRL.) No. 3433 of 2023*. Learned counsel for the petitioner has further submitted that Section 498A of the I.P.C. is triable by the Magistrate. The petitioner has clean antecedent as stated in paragraph no. 3 of the bail application.

6.Learned A.P.P. for the State has opposed the prayer for anticipatory bail of the petitioner.

7. Considering the aforesaid facts and circumstances of the case, let the above named petitioner, in the event of his arrest/surrender before the learned court below within a period of six weeks from today, be enlarged on anticipatory bail on furnishing bail bond of Rs. 20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of the learned court concerned, Banka in connection with Complaint Case No. 90 of 2022, subject to the condition as laid down under Section 438(2) of the Cr.P.C. with further condition:-

(I) The petitioner is directed to remain physically present before the learned court below on each and every date, failing which



on two consecutive dates without reasonable
cause, the bail bonds of the petitioner are
liable to be cancelled.

8. If so advised, either of the parties will be at
liberty to make an application before the learned court below for
referring the matter to the District Mediation Centre for the
purpose of reconciliation or one time settlement.

9. The application stands allowed.

(Chandra Prakash Singh, J)

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